



Santa Clara Valley Water District

File No.: 24-0672

Agenda Date: 7/9/2024
Item No.: *2.1.

BOARD AGENDA MEMORANDUM

Government Code § 84308 Applies: Yes No
(If "YES" Complete Attachment A - Gov. Code § 84308)

SUBJECT:

Review Proposed Change to a Project Under Priority E of the Renewed Safe, Clean Water and Natural Flood Protection Program and Consider Setting a Time and Place for a Public Hearing.

RECOMMENDATION:

- A. Review the proposed change to a project under Priority E of the Renewed Safe, Clean Water and Natural Flood Protection Program; and
- B. Consider and approve setting a time and place for a Public Hearing on the proposed project change.

SUMMARY:

In recent years, infrastructure construction projects within the renewed Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program) have experienced significant cost escalation, adversely affecting the financial health of Fund 26. Consequently, in compliance with the Change Control Process (as defined in Attachment 1), the Board has held public hearings and approved staff recommendations to reduce or reallocate funding for some capital projects, while making a commitment to continue to reassess funding availability annually as part of the Capital Improvement Program's financial planning process.

Project E6: Upper Llagas Creek Flood Protection, Phase 2B (Project No. 26174055)

Project Description

The Upper Llagas Creek Flood Protection Project (Upper Llagas Creek Project) continues a partnership with the U.S. Army Corps of Engineers (USACE) and the State of California to plan, design, and construct improvements along 13.9 miles of channel. The project extends from Buena Vista Avenue to Llagas Road and includes West Little Llagas Creek in downtown Morgan Hill.

The project is being constructed in three phases. Phase 1, which included 4.4 miles of channel

excavation and construction of the on-site compensatory mitigation at Lake Silveira wetlands, was completed in April 2022. Phase 2A includes constructing approximately 2,300 linear feet of a horseshoe-shaped underground tunnel 14 ft x 12 ft and approximately 1,600 linear feet of 10 ft x 9 ft twin reinforced concrete box culverts to carry high water flows, and completion is expected in approximately August. Phase 2B is the final phase and is essential to delivering the entire project and flood protection

to the community. It includes constructing approximately 1,900 linear feet of twin reinforced concrete box culverts (10 ft x 9 ft), creek modifications by excavating to widen and deepen the channel, installation of culverts at various street crossings, construction of an inlet basin weir split-flow structure, and bridge underpinning work.

Construction Bid Price and Funding Shortfall

Phase 2B construction was advertised for bids and they were opened on June 26, 2024.

Based on the bids received, the construction cost estimate has now increased from approximately \$90.6 million to approximately \$142.2 million, which includes a 10% contingency. Nationally and locally, the construction industry has experienced steep increases in construction costs for several reasons, including fast-rising materials costs, supply chain disruptions, and a tight labor market.

The Upper Llagas Creek Project construction costs are funded through the Safe, Clean Water Program, which has \$90.6 million for Phase 2B construction, including an \$80 million commitment from the United States Natural Resources Conservation Service (NRCS) and \$4.5 million from the City of Morgan Hill for city-specific improvements. This leaves a funding shortfall of \$51.6 million for the project. Staff plans to recommend the Board award a construction contract, provided the funding shortfall can be resolved.

To address the funding shortfall, staff is recommending the funding change detailed below to pay for constructing the shovel-ready Phase 2B while balancing the Safe, Clean Water Fund (Fund 26). This change will impact the funding allocation of Project E8: Upper Guadalupe River Flood Protection (Upper Guadalupe River Project).

Proposed Modification: Funding Allocation

Project E8: Upper Guadalupe River Flood Protection (Project No. 26154003)

Project Description

The federally authorized project continues a partnership with the U.S. Army Corps of Engineers (USACE) to plan, design, and construct improvements along 5.5 miles of the channel extending from Interstate 280 to Blossom Hill Road. Improvements include channel widening, construction of floodwalls and levees, replacement of road crossings and planting of streamside vegetation. Reducing flood frequency and bank erosion will improve water quality, while planned mitigation measures will give fish access to an additional 12 miles of habitat within and upstream of the project reach. The project has two (2) key performance indicators (KPIs):

1. Preferred project with federal and local funding: Construct a flood protection project to provide 1% (100-year) flood protection to 6,280 homes, 320 businesses and 10 schools and institutions.
2. With local funding only: Construct flood protection improvements along 4,100 feet of Guadalupe River between the Southern Pacific Railroad (SPRR) crossing, downstream of Willow Street, to the Union Pacific Railroad (UPRR) crossing, downstream of Padres Drive, and provide gravel augmentation along approximately 800 linear feet of the Upper Guadalupe River in San José, from approximately the Union Pacific Railroad Bridge to West Virginia Street Bridge to improve aquatic habitat for migrating steelhead and all native fish species and channel stability.

Current Project Schedule and Status

Since FY15, lack of federal funding has stalled the design and construction of the flood protection elements of the project. In January 2021, the USACE began a General Re-evaluation Study to re-evaluate the scope of the project and the associated benefits and construction costs that can help make the project more competitive for federal funding by maximizing protection while maintaining affordability.

The General Re-evaluation Report (GRR) is expected to be completed by June 2025, resulting in a new preferred project with a new project schedule. This will be followed by project design, which USACE estimates will begin in 2026. At that time, Santa Clara Valley Water District (Valley Water) will be required to pay a cash contribution for the non-federal cost-share of the design and construction costs. Design completion is expected in early 2028, followed by construction start in 2028, and completion by 2033.

Recommended Funding Allocation Change

Based on the project schedule and status described above, staff is recommending reallocating the current planned cost-share funding allocation of approximately \$45.5 million in future capital costs from the Upper Guadalupe River Project to the Safe, Clean Water Program’s Operating and Capital Reserves to balance Fund 26. This reallocation will balance Fund 26 in the short term and provide sufficient funds now to award a construction contract and complete the final phase of the Upper Llagas Creek Project, which has been in the works for about 70 years.

The Upper Guadalupe River Project remains a Valley Water commitment under the Safe, Clean Water Program, and the proposed funding changes would impact but not change the project’s KPIs. The proposed modified allocation will allow Valley Water to pay the required non-federal cash contribution for the design and begin construction of the new preferred project.

Meanwhile, in the interim four years, Valley Water will continue to explore other funding alternatives. These include grant opportunities for various Safe, Clean Water projects; additional NRCS grant funding for the Upper Llagas Creek Project, Phase 2B, given the increased construction cost; and additional debt proceeds, etc., to help fund the construction of the Upper Guadalupe River Project. Valley Water will also continue working with USACE on the project funding plan. Valley Water will reassess Upper Guadalupe River Project funding annually through the Capital Improvement Program Five-Year Plan Development Process.

Should additional funding become available within the Fund 26 Reserves or through partnership and/or grant funding, the Board may reallocate the construction funding to the project through a direction provided during a regular board meeting.

Proposed modification to 15-year (FY22 to FY36) project funding:

Project E8: Upper Guadalupe River Flood Protection, Reaches 7-12 Financial Summary (\$ Thousand)	
15-Year Allocation	Proposed Modified 15-Year Allocation*
\$64,947	\$19,447

**The modified funding allocation is approximated at this time and will be finalized at a future budget adjustment and will be reflected in the Capital Improvement Program FY2026-30 Five-Year Plan.*

Additional Funding Sources: Fund 12

To close the remaining funding shortfall for the Upper Llagas Creek Project, Phase 2B construction, and present a balanced Fund 26, staff is also recommending reallocating Fund 12 dollars currently allocated to the Ogier Ponds Construction Placeholder Project.

Ogier Ponds Construction Placeholder (Project No. 62C40402)

This Watersheds Stream Stewardship Fund (Fund 12) placeholder project with approximately \$28 million in funding allocation was created to support construction of the Ogier Ponds-Coyote Creek Separation Project (Ogier Ponds Project). The Ogier Ponds Project is now part of the Anderson Dam Seismic Retrofit Project (ADSRP) as a conservation measure. As part of the ADSRP, Ogier Ponds Project construction is funded by the Water Utility Fund (Fund 61). Fund 61 planned funding for Ogier Ponds is \$77.96 million, which includes placeholder project dollars of approximately \$28 million and \$50 million earmarked in ADSRP for project mitigation. The Safe, Clean Water Program's Project D4: Fish Habitat and Passage Improvement also provides approximately \$7.4 million in funding for Ogier Ponds construction, and it will continue to do so.

Considering the alternate funding sources for this project, staff recommends reallocating approximately \$28 million from this placeholder project under Fund 12 to the Safe, Clean Water Program's Operating and Capital Reserves (Fund 26) to improve the fund's financial health and shifting the project cost to the Water Utility Fund (Fund 61).

Because Ogier Ponds is a Fish and Aquatic Habitat Collaborative Effort (FAHCE) project, Valley Water would get credit for those expenditures under the FAHCE settlement agreement, minimizing the impact on Fund 61. Of the approximately \$28 million placeholder dollars, staff recommends allocating approximately \$6.1 million to the Upper Llagas Project to cover the remaining construction cost shortfall.

Setting a Time and Place for a Public Hearing on Proposed Project Changes

The proposed changes trigger the Safe, Clean Water Program's Change Control Process, which includes conducting a public hearing when KPIs are impacted. Due to the proposed funding allocation impacting Project E8: Upper Guadalupe River Flood Protection, Project No 26154003, staff recommends the Board set the time and place for a public hearing to consider the impact of the proposed funding allocation as detailed in this agenda memo and in the Draft Notice of Public Hearing (Attachment 2).

ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:

Individual projects may have environmental justice impacts; Valley Water will conduct outreach and engagement to the impacted communities, which will be reported to the Board accordingly.

FINANCIAL IMPACT:

The financial impact associated with the cost of this item is the cost of placing the Notice of Public Hearing advertisement. The estimated cost for the Notice of Public Hearing advertisement is approximately \$6,000, and there is sufficient budget in the FY25 budget for the Safe, Clean Water

Program, Project No. 26061012.

There would be changes to the financial allocation of the Upper Llagas Project (Project No. 26174055) and the Upper Guadalupe River Project (Project No. 26154003) should the proposed changes be approved. The Upper Guadalupe River Project funding will have approximately \$10 million remaining after reallocating approximately \$45.5 million to the Safe, Clean Water Program's Operating and Capital Reserves to balance Fund 26.

The cost allocated to the Upper Llagas Creek Project, Phase 2B, would increase by approximately \$51.6 million, with \$45.5 million reallocating from the Upper Guadalupe River Project and \$6.1 million of the \$28 million Ogier Ponds Project (Project No. 62C40402) fund transfer to Fund 26. The Water Utility Fund (Fund 61) is expected to incur an initial cost of replacing approximately \$28 million that has been reallocated from the Watersheds Stream Stewardship Fund (Fund 12) to the Safe, Clean Water Program (Fund 26). However, because Ogier Ponds is a FAHCE project, Valley Water would get credit for those expenditures under the FAHCE settlement agreement, minimizing the impact on Water Utility Fund 61.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

- Attachment 1: SCW Program Background
- Attachment 2: Draft Notice of Public Hearing
- Attachment 3: SCVWD Resolution No. 20-64
- *Handout 2.1-A: Brown
- *Handout 2.1-B: Hutchings
- *Handout 2.1-C: Uyehara
- *Handout 2.1-D: Zhao
- *Handout 2.1-E: Unze
- *Handout 2.1-F: Ramesh
- *Handout 2.1-G: Singh
- *Handout 2.1-H: Koneru
- *Handout 2.1-I: Ross
- *Handout 2.1-J: Khule
- *Handout 2.1-K: Chan

UNCLASSIFIED MANAGER:

Luz Penilla, 408-630-2228